

abstracts of title may be obtained, as a last resort.

(4) As used in these sections, an abstract of title is a synopsis or digest of all instruments of record affecting the title to a specific parcel of land. It neither guarantees nor insures the title. A certificate of title is a contract whereby a title company certifies that title to a specific parcel of land is good and unencumbered of record in a named person excepting only such defects and encumbrances as are shown therein. The liability of the company is limited to an amount specified in the certificate. A title insurance policy is a contract which insures that the owner or mortgagee will not suffer any loss or damage by reason of defects in the title to the property, or liens or encumbrances thereon existing at the date of the policy, except those defects, liens, or encumbrances which the policy specifically excepts. Liability thereunder is not limited to matters of record but extends to matters beyond the record.

(5) The Directory of the American Land Title Association may be obtained upon request to the Association at 1828 L Street, NW., Washington, DC 20036, or to any major title insurance company. This Directory lists, by States, the abstract and title companies which provide title insurance. These companies are acceptable to the Attorney General. Requests for furnishing title certificates or title insurance should be made to the major title insurance companies in addition to local abstractors and title companies.

(6) From past experience, it is considered that the procurement of certificates of title or title insurance is more economical than abstracts of title and the use of these types of title evidence expedites payment to landowners. In the majority of the States either certificates of title or title insurance are obtainable and the premium for issuance of such certificates or policies is based on a schedule of fees approved by the State Insurance Commission or some similar State agency. The premium fixed by such schedules, in most cases, includes the charge for title examination (preliminary certificate of title or preliminary binders) and the charge for insurance (final certificates of title or title guarantee policy) and

any variance from the prescribed fees is considered a violation of the State law or regulation. Most State Insurance Commissions have recognized and approved the forms of certificates of title and title insurance policies prescribed by the Attorney General and have authorized their use in lieu of owners' policies. Division and District Engineers should familiarize themselves with the State title insurance laws and regulations. If prices quoted by all possible sources seem exorbitant, the matter should be referred to HQDA (DAEN-REA-P) WASH DC 20314 for action.

§ 644.62 Title evidence.

(a) *Acceptable Types of Title Evidence.*

(i) Certificates of title are acceptable title evidence. Certificates of title must be in a form acceptable to the Attorney General. An acceptable form of certificate of title which has been approved by the Attorney General has been issued by the Chief of Engineers as ENG Form 903, Certificate of Title.

(i) In contracting for certificates of title, ENG Form 1016, Specifications for Furnishing and Delivering Certificates of Title Owner's Title Guarantee (Insurance) Policies and Continuations Thereof, will be used.

(ii) Any title or abstract company approved by the Department of Justice and authorized and qualified to issue certificates of title in the State where the land is located will be acceptable to furnish certificates of title (Department of Justice "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States, 1970.") In those few jurisdictions where bar associations or other public or professional bodies hold that the issuance of certificates of title is the issuance of title opinions and therefore the practice of law and where title companies as corporations cannot engage in the practice of law, insured certificates of title may be procured from attorneys, acceptable to the Lands Division of the Department of Justice, acting as agents for title companies. The procedure for the selection of attorneys is set forth in § 644.63(b).

(iii) Certificates of title will be based on a search of all records affecting the title to the land and be unqualified as

to the period of search. In the event that it is not practicable to obtain certificates of title, unqualified as to the period of search, all pertinent facts will be referred to the Department of Justice for consideration and approval.

(iv) Certificates of title or title insurance policies shall not limit the liability of the title company to a sum less than 50 percent of the reasonable value of the property. If property is acquired by donation or exchange, the value will be determined by the Corps of Engineers. However, as to acquisitions valued at more than \$50,000, the liability of the title company may be limited to 50 percent of the first \$50,000 and 25 percent of that portion of the value in excess of that amount. This limitation on the general rule has been approved by the Department of Justice. The appropriate ENG Forms for specifications for supplying title evidence may be amended, if that limited liability can be obtained. A certificate of title or title insurance policy by one title company for a single acquisition valued at more than 25 percent of the admitted assets (after deducting existing liabilities secured or unsecured and excluding any trust or escrow funds) of the issuing company is not acceptable.

(v) Generally, it is not necessary to obtain a final certificate of title when land is acquired by condemnation proceedings. However, it may be necessary that an intermediate certificate of title be obtained setting forth the limitation of liability of the title company. Division and District Engineers will be governed by the requirements of the local United States Attorney as to the necessity of obtaining an intermediate or final certificate of title.

(vi) Certificates of title, whether preliminary, intermediate, or final, will be procured in sufficient numbers to satisfy the needs of the District involved. Normally an original and two signed copies of each certificate of title will suffice.

(vii) The specifications may be supplemented to require the title company to have a local representative stationed convenient to the project office, when, because of the nature of the project (anticipated complexities of title; high purchase prices, or other reasons), it is considered advisable that

a local representative be available to perform preclosing interim title searches on request of the Contracting Officer.

(viii) The title company's local representative must be authorized to pass on the sufficiency of the proposed deed to the United States; to give final approval of curative material furnished to satisfy title objections set forth in certificates of title; and to testify in court relative to the status of title, if called upon to do so.

(2) Title guarantee or title insurance policies are acceptable title evidence.

(i) Interim binders on owner's title guarantee or title insurance policies supplemented by an owner's title guarantee policy or title insurance policy in the forms approved by the Attorney General (ENG Form 1014), Interim Binder on Owner's Title Guarantee (Insurance) Policy, and ENG Form 1015, Owner's Title Guarantee (Insurance) Policy will be acceptable as evidence of title only in acquisition in those States where certificates of title may not be issued. ENG Form 3893-R is the form of endorsement for use with the title insurance policies when changes or corrections become necessary. No other substantial variation in the form of interim binder or the form of title guarantee or title insurance policy will be acceptable without prior approval of the Attorney General.

(ii) Companies contracting to issue such interim binders or preliminary reports and title guarantee or title insurance policies must have authority under the laws of the State of their incorporation and their charter to issue the same. They must also be financially sound and be willing and able to issue such binders and policies for all tracts for the amount of liability as set forth above.

(iii) In contracting for title guarantee or title insurance policies, ENG Form 1016, Specifications for Furnishing and Delivering Certificate of Title Owner's Title Guarantee (Insurance) Policies and Continuations Thereof, will be used.

(iv) The interim binder or preliminary report must disclose the title holders of record and contain full information on all matters set forth in the binder as affecting the title. This data